

**EXHIBIT A**

GEORG-PETER KRAENZLIN - JULY 28, 2005

1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

BABCOCK BORSIG POWER GmbH, \*  
Plaintiff, \*  
vs. \* CA No. 04 CV 10825-RWZ  
BABCOCK POWER, INC., \*  
Defendant. \*

ORAL DEPOSITION OF DR. GEORG-PETER  
KRAENZLIN, produced as a witness at the instance of  
the Defendant, taken in the above-styled cause on  
the 28th day of July, 2005, from 10:06 a.m. to 3:19  
p.m., before Candice F. Flowers, a Certified  
Shorthand Reporter, at the offices of Babcock Borsig  
AG i.I., Duisburger Strasse 375, in the City of  
Oberhausen, Country of Germany, pursuant to the  
agreements as stated on the record and/or the  
Federal Rules of Civil Procedure.

**COPY**

Reported By:  
Candice F. Flowers, CSR  
European Reporting Service  
Meesmannstr. 52  
58456 Witten, Germany  
Tel/Fax: (011) 49 2302 277485  
www.EuropeanReportingService.com

1 BBP GmbH entered into a contract with  
2 Hudson Investment Group, whatever the legal entity  
3 is.

4 Q Now known as Babcock Power, Inc.

5 A BPI. Add an SPA, share purchase  
6 agreement, on the BBCC shares, right? In this  
7 contract we have a noncompete provision -- or we had  
8 a noncompete provision at the beginning, which  
9 covered only any kind of competition coming out of  
10 the former Babcock Borsig Power group, not only  
11 comprising BBCC, but many other companies as well.

12 In the first draft -- or in one of the  
13 first drafts, pretty much to the end actually, this  
14 was our perception that the noncompete would cover  
15 only the business below BBP GmbH. Then BPI learned  
16 about BBP Systems GmbH. And I actually had a  
17 conversation with Jim Wood on that; that this rescue  
18 company will comprise the core businesses of the  
19 former Babcock Borsig AG group.

20 I said, hey, wait a minute. This cannot  
21 be that we limit noncompete provision only to this  
22 substructure, so to say, below BBP. And then,  
23 although it was not our agenda, we ultimately gave  
24 in and said, okay, this business which will be  
25 allocated within Babcock Borsig Power Systems GmbH,

1 we put as well under this noncompete agreement which  
2 we entered into in the SPA on BBX.

3 Understood so far?

4 Q Uh-huh.

5 A In order to get there, we have to -- or we  
6 had to accept the bridge to get BBPS, Incorporated  
7 in the noncompete. And then this creature here was  
8 enlarged in order to get this involved.

9 Q When you say "this creature here was  
10 enlarged," since you are drawing on a board, you  
11 drew a circle around "Holding" -- what's that?

12 A That's nothing. That's a one-man show.

13 Q Okay. You have a holding entity --

14 A Right.

15 Q -- above BBP GmbH --

16 A Yeah, I don't recall --

17 Q -- and then that goes to BBX.

18 A AG, right.

19 Q BBX is Babcock Borsig AG.

20 A A simple holding company.

21 THE REPORTER: Wait. This is going  
22 to get lost. I need one person speaking at a time,  
23 please.

24 MR. COMEN: Okay.

25 THE REPORTER: It's not going to come

1 out right in the transcript, because you're talking  
2 over each other and I'll lose it.

3 MR. COMEN: I understand.

4 A Again, originally, the noncompete covered  
5 the substructure of BBP GmbH in the course of the  
6 negotiations. Then Hudson Investment learned about  
7 rescue company, which was in the process of being  
8 developed over the following months.

9 Q And the rescue company your hand is on is  
10 Babcock Borsig Power Systems GmbH.

11 A Called now Babcock Hitachi Europe GmbH.

12 Q Okay.

13 A So, finally, we made a concession, okay?  
14 We broaden the scope of the noncompete from BBP  
15 group structure in a way so that BBP Systems GmbH  
16 will be also bound by the noncompete.

17 Q And you drew this circle -- your blue  
18 circle goes all the way above and around BBX.

19 A Right. Why? We had to go to the legal  
20 structure in order to get there, because this is 100  
21 percent, this is 100 percent, and this is 100  
22 percent.

23 Q And when you say "this" and "this" and  
24 "this," the court reporter won't be able to take  
25 that down. You are drawing that BBX owns 100

**EXHIBIT B**

060117BA.txt

UNCERTIFIED ROUGH TRANSCRIPT 1

COURT REPORTER'S DISCLAIMER IN THE MATTER OF

Babcock Borsig Power GmbH  
VS.  
Babcock Power Inc., ETC.

5 The following deposition transcript of  
Georg-Peter Kraenzlin, taken on Tuesday, Januar 17,  
2006, is being delivered UNEDITED and UNCERTIFIED by  
the court reporter at the request of Attorneys Comen  
and Bello.

The party working with this product agrees not  
to share, give, copy, scan, fax, or in any way  
distribute this realtimed rough draft in any form  
(written or computerized) to any other party.

10 The party's experts, co-counsel, and staff may  
have limited internal use thereof with the  
understanding that this realtimed rough draft will  
be destroyed and replaced by the final edited,  
certified transcript when it is received by the  
party in due course.

15 The party agrees to indemnify and hold harmless  
Doris O. Wong Associates, Inc., and its court  
reporter Carol H. Kusinitz if the unedited and  
uncertified version of this transcript is cited by  
any party to this matter and becomes a point of  
contention within this case or any other  
controversy.

20

UNCERTIFIED ROUGH TRANSCRIPT 2

P R O C E E D I N G S

GEORG-PETER KRAENZLIN, Resumed

a witness called for examination by counsel for the  
Defendant, being duly identified by his German  
5 identification card and sworn, was examined and

060117BA.txt

Q So you have no damages which you are

UNCERTIFIED ROUGH TRANSCRIPT 21

asserting in connection with Mitsui; is that correct?

A I did not enter or Dr. Schmitz did not enter into a contract with Mitsui. Mitsui backed  
5 off when we were in the course of selling the service business.

Q So you claim no damages now in connection with any transaction associated with Mitsui; is that correct?

10 A With Mitsui, correct.

Q Now, you listed three companies, the German financial investors that bought Babcock Borsig service, the Austrian company that bought the Espania entity, and someone who bought the UK  
15 entity. Are there any others that you specifically claim damages on account of?

A For the time being I think we did not claim damages, per se, because I wanted to see how the case goes, the first answer. The second answer, I  
20 don't recall now on the top of my head whether there were other transactions where I had, again, these dispute on this non-compete agreement. I made so many transactions that I have to go into my files and check.

UNCERTIFIED ROUGH TRANSCRIPT 22

Q Well, then having in mind this is discovery  
Page 18



**EXHIBIT C**

060117BA.txt

UNCERTIFIED ROUGH TRANSCRIPT 1

COURT REPORTER'S DISCLAIMER IN THE MATTER OF

Babcock Borsig Power GmbH  
vs.  
Babcock Power Inc., ETC.

5 The following deposition transcript of  
Georg-Peter Kraenzlin, taken on Tuesday, Januar 17,  
2006, is being delivered UNEDITED and UNCERTIFIED by  
the court reporter at the request of Attorneys Comen  
and Bello.

The party working with this product agrees not  
to share, give, copy, scan, fax, or in any way  
distribute this realtimed rough draft in any form  
(written or computerized) to any other party.

10 The party's experts, co-counsel, and staff may  
have limited internal use thereof with the  
understanding that this realtimed rough draft will  
be destroyed and replaced by the final edited,  
certified transcript when it is received by the  
party in due course.

15 The party agrees to indemnify and hold harmless  
Doris O. Wong Associates, Inc., and its court  
reporter Carol H. Kusnitz if the unedited and  
uncertified version of this transcript is cited by  
any party to this matter and becomes a point of  
contention within this case or any other  
controversy.

20

UNCERTIFIED ROUGH TRANSCRIPT 2

P R O C E E D I N G S

GEORG-PETER KRAENZLIN, Resumed

a witness called for examination by counsel for the  
Defendant, being duly identified by his German  
5 identification card and sworn, was examined and

060117BA.txt

Q Antitrust laws in the United States or in Germany?

A Here.

Q And you received an opinion from someone on  
15 that or that was your opinion?

MR. BELLO: Objection. Again, if you're going to ask what he's talked to counsel about --

Q Is that opinion based on --

MR. BELLO: If it's your own opinion, can  
20 you testify.

A I am not admitted to the bar here, but for me personally, the originally expressed hostile interpretation of the non-compete would have violated U.S. antitrust law, or at least it would

□

UNCERTIFIED ROUGH TRANSCRIPT 67

have been, according to European standards.

Q I only have a couple of questions and then we'll break for lunch. You expressed an opinion that Babcock Power had a post closing fiduciary duty  
5 to sign the documents you requested be signed in connection with the Hitachi deal, did you not?

A The legal evaluation, I leave to our local lawyers here.

Q No, no, but it was your term. Do you  
10 recall using the term, "post closing fiduciary duty"?

A I don't recall.

Q Do you claim that anyone on behalf of Babcock Power affirmatively stated to anyone an

060117BA.txt  
15 interpretation or did anything else affirmatively to  
interfere with your deal with Hitachi, or is your  
claim that they simply failed to sign one of the  
documents you asked them to sign?

MR. BELLO: Objection. Compound question.  
20 would you read it back, please.

(Question read)

MR. BELLO: Objection. You can answer  
that.

A when your question was, if somebody told me

□

UNCERTIFIED ROUGH TRANSCRIPT 68

from BPI's side whether or not the non-compete  
should refer also to the already existing business  
of, for example, Hitachi --

Q No, let me see if I can make my --

5 A The clear answer is yes.

Q After the closing --

A Correct.

Q -- someone told you what?

A That already existing businesses of the  
10 purchaser here, in this case Hitachi, should be  
bound by the non-compete agreement.

Q who told you that?

A Nathan Hevrony, although he was relaying or  
referring Jim Wood's opinion to me, because he,  
15 Nathan Hevrony, confirmed our understanding of the  
non-compete. And therefore he was complaining about  
the behavior of the board of Babcock Power Inc..

Q other than that conversation that you just  
described, was there anything else that was done or

060117BA.txt

20 said by anyone on behalf of Babcock Power that you  
claim wrongfully interfered with your dealings with  
Hitachi?

MR. BELLO: Objection.

A It was not only one meeting in which Nathan

UNCERTIFIED ROUGH TRANSCRIPT 69

Hevrony relayed that to me, it were several meetings  
or phone conversations I had with him, because at  
the time when I was trying to close the sale on the  
rescue company, there was a constant effort on my  
5 side to get the closing conditions done, and  
therefore I was contacting him, Nathan Hevrony, and  
I got this information back.

Q So other than conversations that you had  
with Mr. Hevrony in which he said something about  
10 what Jim Wood had said to him, there is nothing else  
that you claim that interfered at all with your  
Hitachi deal; is that --

MR. BELLO: Objection.

A The statement is not correct.

15 Q What else do you claim?

A I have to check my files whether there is  
any correspondence directly from myself to Jim Wood.

Q All right. But is it your claim that  
either Mr. Hevrony, Jim Wood or anyone else from  
20 Babcock ever said anything to anyone at Babcock  
Hitachi that interfered with your deal?

A Whether Hitachi people told me that they  
were told by BPI representatives?

060117BA.txt

Q Or in any other way you claim that someone

UNCERTIFIED ROUGH TRANSCRIPT 70

from Babcock Power said something to Babcock Hitachi people that interfered with your deal. All you've described up to now is conversations you had with Mr. Hevrony about what he said Jim Wood said to him.

5 A Because he was the guy who we were negotiating within the course of the acquisition -- or the sale of the rescue company.

Q I understand, but --

A So, therefore, he was our natural point of  
10 reference when we talk about contract issues.

Q Please let's be clear before we break for lunch. All you have described so far is conversations that someone had with you --

A I think.

15 Q How did those conversations wrongfully interfere with anything that was happening with Hitachi?

A I think I stated already that this statement is not correct. I have to look into my  
20 correspondence I had directly with Jim Wood or representatives of BPI in regard to that issue.

So --

Q Other than communications with Jim Wood or other representatives asking them to sign a

UNCERTIFIED ROUGH TRANSCRIPT 71

document, do you claim that anyone from Babcock  
Page 60

060117BA.txt

Power said anything to Babcock Hitachi people directly that interfered with your deal?

A I don't recall.

5 Q As you sit here today, you have absolutely no memory of any such statements being made by anyone from Babcock Power to Babcock Hitachi?

A I don't recall. I have to look into my files. And it also might very well be that on  
10 another communication level or line, actually, this information was referred to.

Q What other communication level or line?

A For example, somebody from Hitachi said something to Dr. Schmitz or Ludger Kramer or  
15 whatever.

Q Said something to those gentlemen about a conversation that they may have had with someone from Babcock Power?

A Right. -- no, whether they were informed  
20 by Babcock Hitachi representatives about any saying BPI representatives made to Hitachi representatives.

Q Okay.

MR. COMEN: Why don't we break for lunch and see if your memory is refreshed over lunch and

□

UNCERTIFIED ROUGH TRANSCRIPT 72

I'll follow upright where we left off.

MR. BELLO: We want 45 minutes.

MR. COMEN: 20 past 2:00 or a quarter past  
2:00.

5 MR. BELLO: 20 past 2:00.